



## Clerk's review

This report documents the performance of the Department of the Senate for 2011–12.

### Overview

The year began with the Senate sitting in early July, for the commencement of a new Senate term, for the first time since 1950. Concerted planning, and diligent execution of those plans, by numerous Senate officers ensured a smooth transition for both retiring senators and the twelve new senators elected in August 2010 for whom an orientation program was conducted after their initial sittings. Otherwise, the year was typical of a middle year in an electoral cycle, with strong levels of legislative and committee activity. Not typical, however, was the absence of legislative disagreement between the Houses, usually reflected in negotiations on amendments made by the Senate to bills originating in the House of Representatives. This is perhaps one of the more unexpected outcomes of minority government in the House.

### Finances

In last year's review, I looked forward to the end of the three-year additional two per cent efficiency dividend and its return to 'normal' levels, noting its impact on the ability of small agencies to deliver their essential services:

For the most part, the Senate Department has been able to operate within the discipline imposed by the efficiency dividend but it is clearly not a policy that is sustainable in the long term.

The final outcome for 2011–12 is a deficit of \$1.338 million which reflects the impact of the additional efficiency dividends. Moreover, a further one-off additional efficiency dividend of 2.5 per cent was announced for the 2012–13 financial year, dashing any hopes of a respite. Although the department received a small increase in funding for the new Parliamentary Joint Committee on Human Rights, the increase was less than the Appropriations and Staffing Committee had endorsed as representing reasonable costs to support the committee. Two other small new policy proposals endorsed by the committee were also rejected, leaving the 2012–13 Budget significantly short of what is required to support the department's operations for the next financial year. As a

consequence, measures have been implemented to reduce staffing levels and operational expenditure, but there will almost certainly be an impact on the services that the department will be able to provide to senators in the next financial year, compared with services that have been able to be provided in the past.

As a matter of principle, the lack of regard shown by successive executive governments for the operational needs of the Parliament to enable it to function effectively is a worrying trend. Since the 1980s, the Senate has had an Appropriations and Staffing Committee and a mechanism for engaging the executive government in relation to the department's budget but the mechanism, though clearly not a legal requirement, has had only limited effectiveness. Experience in other jurisdictions where parliaments have a greater degree of autonomy in setting their budgets shows that the function is undertaken responsibly and having regard to prevailing financial and economic circumstances. There are no grounds to believe that the Australian Parliament would not adopt the same responsible approach, especially where the budget-setting mechanism included high level representation of both government and non-government interests (as the Appropriations and Staffing Committee does).

The institutions of representative and responsible government are at the head of the Australian Constitution. Their ability to carry out fundamental representative, scrutiny and legislative functions should not be compromised by continual and arbitrary reduction of funds.

## **Departmental structure and staffing**

After the significant changes reported last year, 2011–12 has been a year of consolidation with no changes in the department's SES staff, all of whom remain in the same positions for the time being. Rotation of senior staff has been a long-standing policy of the department in order to build up corporate knowledge and insure against loss of key staff, and is likely to be considered in the context of the next general election or Senate changeover.

This philosophy also drives the department's learning and development framework for all staff. The majority of staff not only met comfortably the goal of 21 hours of training over their annual performance cycle but also responded enthusiastically to the availability of relevant and targeted opportunities for professional development. With significant generational change having occurred throughout the department, the program is proving to be an effective means of enhancing institutional and corporate knowledge.

The new Senate Public Information Office also established its presence and the core staff of two will be supplemented early in the next reporting period by the transfer of web publishing staff from the Black Rod's Office, followed by staff undertaking related work in other offices.

## Freedom of Information

As noted in numerous annual reports, the Department of the Senate has always complied with the intent of the *Freedom of Information Act 1982* to the extent that it was practicable. In 2011, the Presiding Officers indicated their willingness to participate in a review of the Act, proposed to commence late in 2012, as a basis for considering the application of the Act to the parliamentary departments.

In the meantime, the Australian Information Commissioner amended guidelines made under section 93A of the Act to declare that the parliamentary departments were subject to the Act, contrary to the previous version of the guidelines and to the long-understood status of the parliamentary departments as excluded from legislation intended to give people a right of access to information held by the government. The change apparently resulted because of a revised legal interpretation to the effect that the enactment of legislation to establish the Parliamentary Service removed the explicit exclusion of the parliamentary departments from the Act, although it was unintended.

The FOI Act does not apply in respect of documents of courts, tribunals and the Official Secretary to the Governor-General unless the documents relate to matters of an administrative nature. Office-holders of courts and tribunals, including judicial office-holders, are also not subject to the Act. As a result of the amended guidelines, the Parliament and its Presiding Officers now find themselves without the level of certainty enjoyed by other bodies not under the control of the executive government, yet subject to potentially inappropriate intrusion by the executive government over control of their records. The foreshadowed review will no doubt provide an opportunity to consider the matter further.

## Highlights

Notwithstanding the gloomy outlook for the department's finances, there were many highlights during the year.

The new parliamentary website was finally launched in February 2012 and there has been much revision and updating of content on the Senate

pages. There is now a great deal more pictorial material on the site than previously and it is hoped that, following enhancements, the expected multimedia capability will be realised to enable publication of more explanatory videos and a video-on-demand service to provide greater access to Senate and committee proceedings.

One of the first services provided by the newly-established Senate Public Information Office was a Twitter feed to publicise the work of the Senate and its committees, including by providing links to information and other resources such as the *Dynamic Red* (an online tool for tracking the progress of business in the Senate). We also responded directly to queries and some comments. By the end of the reporting period, @AuSenate had approximately 4,000 followers. The department also uses the Twitter account to draw attention to recruitment opportunities. It is proving to be a cost-effective substitute for newspaper advertising of vacancies, although most applicants continue to source their information through the Australian Public Service *Gazette* which also carries information about vacancies in the Australian Parliamentary Service.

The thirteenth edition of *Odgers' Australian Senate Practice* was tabled in the Senate in the early hours of 29 June 2012. It contains updates to May 2012 and was completely revised and reformatted in order to make it easier to read. As was explained in the preface, it retains the name of my predecessor, Harry Evans, as editor in recognition of the enormous contribution he has made to parliamentary and constitutional studies. Although the work has been published online since the seventh edition, the 13th edition was the first to be published as an e-book for tablet devices, as well as in PDF and HTML formats for the web. The new HTML version also has additional navigational features developed in-house. The idea of an 'Odgers app' was first raised by senators at estimates hearings and the e-book was developed in response to the growing use of tablet devices by senators. Turning *Odgers* into a multimedia app in the proper sense, however, is probably still some time away!

Still in the realms of new technology, the publication of the 13th edition of *Odgers* was the second most 're-Tweeted' event announced on @AuSenate, eclipsed only by news of the resignation of Senator Bob Brown as Leader of the Australian Greens.

The Presiding Officers commissioned a review of information and communications technology for the Parliament which is due to report early in the new financial year. Responsibility and funding for various aspects of ICT is spread across parliamentary departments and

departments of state, and strategic oversight is lacking. It is expected that the review will address this and other issues. In the meantime, the department continued to work on upgrading the business systems which support the operations of the chamber and committees and which are the subject of more detailed reporting in the chapters on the Table and Committee Offices.

As foreshadowed in last year's report, an orientation program was conducted for senators over three days in July 2011 during which many aspects of a senator's role were covered and senators were given a basic introduction to procedure. Senators who fill casual vacancies miss out on the opportunity to participate in such a structured group program but all are offered one-on-one briefings. Unusually, there were five casual vacancies filled during the year with a sixth expected early in 2012–13. Just over 60 per cent of senators currently serving began their terms on or after 1 July 2005. Although this appears to be a high rate of turnover, the current average length of service at 7.8 years is actually higher than the average of 6.3 for the 1980s, but less than the average of 10 to 12 years from the 1940s to the 1970s. It serves as a reminder that our services and the way we provide them need to be re-examined on a regular basis to ensure they keep pace with the needs and expectations of senators.

Committee and legislative activity continued at very strong levels but with some easing of the record workload undertaken by committees over the past two years. The department assumed responsibility for providing secretariat support for the new Parliamentary Joint Committee on Human Rights while the number of select committees remained relatively steady. The number of visiting students undertaking classes conducted by the Parliamentary Education Office in Parliament House continued at near-capacity levels, but some outreach programs were reduced as a result of financial constraints.

Negotiations on a new enterprise agreement with staff were reaching their final stages by the end of the year and the new agreement is expected to be in place shortly thereafter.

We welcomed a new secretary of the Department of Parliamentary Services, Ms Carol Mills, who was appointed following the retirement of Mr Alan Thompson. The Parliamentary Budget Office was also established, following amendments to the *Parliamentary Service Act 1999*, and Mr Phil Bowen PSM was expected to commence as the inaugural Parliamentary Budget Officer in July 2012. We continued to work closely with our colleagues in the Department of the House of Representatives on numerous issues of common interest, and I take this

opportunity to thank the Clerk of the House and his staff for their ongoing cooperation and support.

I also thank all staff for their continuing commitment to providing a quality service to the Senate, its committees and senators. This would not be possible without their knowledge and dedication.

## **Outlook**

2012–13 will see the 43rd Parliament drawing to a close. An election for the places of senators whose terms conclude on 30 June 2014 may be held within 12 months before the expiration of the term and is therefore due some time after 1 July 2013.

The department's finances will be the most significant influence on performance over the coming year. While all efforts will be made to manage within budget, it will remain the case that the department will not be able to keep up with the pace of technological change and will therefore not be able to provide the types of services that an increasingly technologically-aware public expects from its national parliament.

In closing, it was with much sadness that we learned of the death of Senator Judith Adams on 31 March 2012. Senator Adams was a great participant in the life of the department. Through her work on Senate committees and in the chamber as deputy whip, many staff came to know and admire her for her passionate devotion to improving the lives of Australians, particularly those in regional and remote areas. She was a stalwart of the parliamentary exchange program with the Australian Defence Force, and the courage she showed in facing her last illness was an inspiration. Her loss was keenly felt by Senate staff.

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Clerk of the Senate